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Docket No.: NEB-135-C

#5

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Wayne, et al. EXAMINER: W. Sandals
SERIAL NO.: 09/664,186 GROUP: 1636
FILED: September 18, 2000
FOR: Method For Construction of *Thermus-E. coli* Shuttle
Vectors & Identification of Two *Thermus* Plasmid
Replication Origins

The Honorable Commissioner of
Patents And Trademarks
Washington, DC 20231

Sir:

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RESTRICTION REQUIREMENT

In response to the Restriction Requirement dated November 23, 2001 in which a restriction requirement under 35 U.S.C. §121, Applicants hereby provisionally elect Group I claims 1-3. Pursuant to 27 C.F.R. §1.143, Applicants simultaneously request reconsideration of this requirement in light of the remarks present below.

Xu, et al.

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Filed: September 18, 2000

Page: 2

Should the Examiner wish to discuss any of the Remarks made herein, the undersigned attorney would appreciate the opportunity to do so. Thus, the Examiner is authorized to call the undersigned collect at the number shown below.

Respectfully submitted,

NEW ENGLAND BIOLABS, INC.

Dated: 1/9/02

Customer No. 28986



Gregory D. Williams
(Reg. No. 30901)
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Beverly, Massachusetts 01915
(978) 927-5054; Ext. 292



Practitioner's Docket No. NEB-135-C

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Wayne, et al.

Application No.: 09/664,186 Group No.: 1636

Filed: September 18, 2000 Examiner: W. Sandals

For: Method For Construction Of *Thermus-E. coli* Shuttle Vectors
& Identification of Two *Thermus* Plasmid Replication Origins

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Assistant Commissioner for Patents
Washington, D.C. 20231

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AMENDMENT TRANSMITTAL

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1. Transmitted herewith is an amendment for this application.

STATUS

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2. Applicant is

a small entity. A statement:
 is attached.
 was already filed.
 other than a small entity.

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CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. § 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Date: 1/10/02

FACSIMILE

transmitted by facsimile to the Patent and Trademark Office.

Signature

Melissa A. Jackson

(type or print name of person certifying)

(Amendment Transmittal [9-19]—page 1 of 4)

EXTENSION OF TERM

NOTE: "Extension of Time in Patent Cases (Supplement Amendments) — If a timely and complete response has been filed after a Non-Final Office Action, an extension of time is not required to permit filing and/or entry of an additional amendment after expiration of the shortened statutory period.

If a timely response has been filed after a Final Office Action, an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely-filed response placed the application in condition for allowance. Of course, if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run." Notice of December 10, 1985 (1061 O.G. 34-35).

NOTE: See 37 C.F.R. § 1.645 for extensions of time in interference proceedings, and 37 C.F.R. § 1.550(c) for extensions of time in reexamination proceedings.

3. The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

(complete (a) or (b), as applicable)

(a) Applicant petitions for an extension of time under 37 C.F.R. § 1.136
(fees: 37 C.F.R. § 1.17(a)(1)-(4) for the total number of months checked below:

Extension (months)	Fee for other than small entity	Fee for small entity
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 390.00	\$ 195.00
<input type="checkbox"/> three months	\$ 890.00	\$ 445.00
<input type="checkbox"/> four months	\$ 1,390.00	\$ 695.00

Fee: \$ _____

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

An extension for _____ months has already been secured. The fee paid therefor of \$ _____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ _____

OR

(b) Applicant believes that no extension of term is required. However, this is a conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

FEE FOR CLAIMS

4. The fee for claims (37 C.F.R. § 1.16(b)-(d)) has been calculated as shown below:

(Col. 1)	(Col. 2)	(Col. 3)	SMALL ENTITY	OTHER THAN A SMALL ENTITY
----------	----------	----------	--------------	------------------------------

CLAIMS
REMAINING
AFTER
AMENDMENT

HIGHEST NO
PREVIOUSLY
PAID FOR

PRESENT
EXTRA

RATE
ADDIT.
FEE
OR
RATE

ADDIT.
FEE

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TOTAL	MINUS	**	=	x\$9 = \$	x\$18 = \$
INDEP.	MINUS	***	=	x\$40 = \$	x\$80 = \$
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEP. CLAIM				+\$135 = \$	+\$270 = \$
				TOTAL ADDIT. FEE \$	OR TOTAL ADDIT. FEE \$

- If the entry in Col. 1 is less than entry in Col. 2, write "0" in Col. 3.
- If the "Highest No. Previously Paid for" IN THIS SPACE is less than 20, enter "20".
- If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".
- The "Highest No. Previously Paid For" (Total or indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

WARNING: "After final rejection or action (§ 1.113) amendments may be made cancelling claims or complying with any requirement of form which has been made." 37 C.F.R. § 1.116(a) (emphasis added).

(complete (c) or (d), as applicable)

(c) No additional fee for claims is required.

OR

(d) Total additional fee for claims required \$ _____

FEE PAYMENT

- Attached is a check money order in the amount of \$ _____
- Authorization is hereby made to charge the amount of \$ _____
- to Deposit Account No. 14-0740
- to Credit card as shown on the attached credit card information authorization form PTO-2038.

WARNING: Credit card information should not be included on this form as it may become public.

Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

FEE DEFICIENCY

NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, (1065 O.G. 31-33).

6. If any additional extension and/or fee is required, charge Account
No. 14-0740

AND/OR

If any additional fee for claims is required, charge Account
No. 14-0740

Reg. No.: 30901

Tel. No.: (978) 927-5054 X:292

Customer No.:

SIGNATURE OF PRACTITIONER

Gregory D. Williams
General Counsel

(type or print name of practitioner)

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